

§ 1.904(b)-2

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	U.S. source	Foreign source	
		General	Passive
15% rate group	\$1100	(\$500)
Ordinary income	(1000)	1000	\$500

(ii) In determining O's taxable income from sources outside the United States, O must reduce the \$500 capital loss in the general limitation category to \$214.29 (\$500 × 15%/35%) pursuant to paragraph (d) of this section. Taking this adjustment into account, O's foreign source taxable income in all of O's separate categories in the aggregate is \$1285.71 (\$1000 - \$214.29 + \$500).

(iii) In computing O's entire taxable income in the denominator of the section 904(a) foreign tax credit limitation fraction, O must reduce the \$600 of net capital gain for the year to \$257.14 (\$600 × 15%/35%) pursuant to paragraph (c)(2) of this section. Taking this adjustment into account, O's entire taxable income for the year is \$757.14 (\$500 + \$257.14).

(iv) Therefore, O's section 904(f)(5)(D) amount is \$528.57 (\$1285.71 - \$757.14). This amount must be allocated pro rata to O's \$500 of income in the passive category and O's \$785.71 of adjusted income in the general limitation category in accordance with section 904(f)(5)(D).

(i) *Effective date.* This section shall apply to taxable years beginning after July 20, 2004. Taxpayers may choose to apply this section and § 1.904(b)-2 to taxable years ending after July 20, 2004.

[T.D. 9141, 69 FR 43308, July 20, 2004; 69 FR 61761, Oct. 21, 2004]

§ 1.904(b)-2 Special rules for application of section 904(b) to alternative minimum tax foreign tax credit.

(a) *Application of section 904(b)(2)(B) adjustments.* Section 904(b)(2)(B) shall apply for purposes of determining the alternative minimum tax foreign tax credit under section 59 (regardless of whether or not the taxpayer has made an election under section 59(a)(4)).

(b) *Use of alternative minimum tax rates—(1) Taxpayers other than corporations.* In the case of a taxpayer other than a corporation, for purposes of determining the alternative minimum tax foreign tax credit under section 59—

(i) Section 904(b)(3)(D)(i) shall be applied by using the language “section 55(b)(3)” instead of “subsection (h) of section 1”;

(ii) Section 904(b)(3)(E)(ii)(I) shall be applied by using the language “section 55(b)(1)(A)(i)” instead of “subsection (a), (b), (c), (d), or (e) of section 1 (whichever applies)”; and

(iii) Section 904(b)(3)(E)(iii)(I) shall be applied by using the language “the alternative rate of tax determined under section 55(b)(3)” instead of “the alternative rate of tax determined under section 1(h)”.

(2) *Corporate taxpayers.* In the case of a corporation, for purposes of determining the alternative minimum tax foreign tax credit under section 59, section 904(b)(3)(E)(ii)(II) shall be applied by using the language “section 55(b)(1)(B)” instead of “section 11(b)”.

(c) *Effective date.* This section shall apply to taxable years beginning after July 20, 2004. See § 1.904(b)-1(i) for a rule permitting taxpayers to choose to apply § 1.904(b)-1 and this § 1.904(b)-2 to taxable years ending after July 20, 2004.

[T.D. 9141, 69 FR 43316, July 20, 2004; 69 FR 61761, Oct. 21, 2004]

§ 1.904(f)-0 Outline of regulation provisions.

This section lists the headings for §§ 1.904(f)-1 through 1.904(f)-8 and 1.904(f)-12.

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This section lists the headings for §§ 1.904(f)-1 through 1.904(f)-8 and 1.904(f)-12.

§ 1.904(f)-1 Overall foreign loss and the overall foreign loss account.

(a)(1) Overview of regulations.

(2) [Reserved] For further guidance, see the entry for § 1.904(f)-1T(a)(2) in § 1.904(f)-0T.

(b) Overall foreign loss accounts.

(c) Determination of a taxpayer's overall foreign loss.

(1) Overall foreign loss defined.

(2) Separate limitation defined.

(3) Method of allocation and apportionment of deductions.

(d) Additions to the overall foreign loss account.

(1) General rule.

(2) Overall foreign losses of another taxpayer.

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(3) Additions to overall foreign loss account created by loss carryovers.

(4) [Reserved] For further guidance, see the entry for § 1.904(f)-1T(d)(4) in § 1.904(f)-0T.

(i) Adjustment due to reduction in foreign source income under section 904(b).

(ii) Adjustment to account for rate differential between ordinary income rate and capital gain rate.

(e) Reductions of overall foreign loss accounts.

(1) Pre-recapture reduction for amounts allocated to other taxpayers.

(2) Reduction for amounts recaptured.

(f) Illustrations.

§ 1.904(f)-2 Recapture of overall foreign losses.

(a) In general.

(b) Determination of taxable income from sources without the United States for purposes of recapture.

(1) In general.

(c) and (c)(1) [Reserved] For further guidance, see the entries for § 1.904(f)-2T(c) and (c)(1) in § 1.904(f)-0T.

(2) Election to recapture more of the overall foreign loss than is required under paragraph (c)(1).

(3) Special rule for recapture of losses incurred prior to section 936 election.

(4) Recapture of pre-1983 overall foreign losses determined on a combined basis.

(5) Illustrations.

(d) Recapture of overall foreign losses from dispositions under section 904(f)(3).

(1) In general.

(2) Treatment of net capital gain.

(3) Dispositions where gain is recognized irrespective of section 904(f)(3).

(4) Dispositions in which gain would not otherwise be recognized.

(i) Recognition of gain to the extent of the overall foreign loss account.

(ii) Basis adjustment.

(iii) Recapture of overall foreign loss to the extent of amount recognized.

(iv) Priorities among dispositions in which gain is deemed to be recognized.

(5) Definitions.

(i) Disposition.

(ii) Property used in a trade or business.

(iii) Property used predominantly outside the United States.

(iv) Property which is a material factor in the realization of income.

(6) Carryover of overall foreign loss accounts in a corporate acquisition to which section 381(a) applies.

(7) Illustrations.

§ 1.904(f)-4 Recapture of foreign losses out of accumulation distributions from a foreign trust.

(a) In general.

(b) Effect of recapture on foreign tax credit limitation under section 667(d).

(c) Recapture if taxpayer deducts foreign taxes deemed distributed.

(d) Illustrations.

§ 1.904(f)-5 Special rules for recapture of overall foreign losses of a domestic trust.

(a) In general.

(b) Recapture of trust's overall foreign loss.

(1) Trust accumulates income.

(2) Trust distributes income.

(3) Trust accumulates and distributes income.

(c) Amounts allocated to beneficiaries.

(d) Section 904(f)(3) dispositions to which § 1.904(f)-2(d)(4)(i) is applicable.

(e) Illustrations.

§ 1.904(f)-6 Transitional rule for recapture of FORI and general limitation overall foreign losses incurred in taxable year beginning before January 1, 1983, from foreign source taxable income subject to the general limitation in taxable years beginning after December 31, 1982.

(a) General Rule.

(b) Recapture of pre-1983 FORI and general limitation overall foreign losses from post-1982 income.

(1) Recapture from income subject to the same limitation.

(2) Recapture from income subject to the other limitation.

(c) Coordination of recapture of pre-1983 and post-1982 overall foreign losses.

(d) Illustrations.

§ 1.904(f)-7 Separate limitation loss and the separate limitation loss account.

[Reserved] For further guidance, see the entries for § 1.904(f)-7T in § 1.904(f)-0T.

§ 1.904(f)-8 Recapture of separate limitation loss accounts.

[Reserved] For further guidance, see the entries for § 1.904(f)-8T in § 1.904(f)-0T.

§ 1.904(f)-12 Transition rules.

(a) Recapture in years beginning after December 31, 1986, of overall foreign losses incurred in taxable years beginning before January 1, 1987.

(1) In general.

(2) Rule for general limitation losses.

(i) In general.

(ii) Exception.

(3) Priority of recapture of overall foreign losses incurred in pre-effective date taxable years.

(4) Examples.

(b) Treatment of overall foreign losses that are part of net operating losses incurred in pre-effective date taxable years which are carried forward to post-effective date taxable years.

(1) Rule.

(2) Example.

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(c) Treatment of overall foreign losses that are part of net operating losses incurred in post-effective date taxable years which are carried back to pre-effective date taxable years.

(1) Allocation to analogous income category.

(2) Allocation to U.S. source income.

(3) Allocation to other separate limitation categories.

(4) Examples.

(d) Recapture of FORI and general limitation overall foreign losses incurred in taxable years beginning before January 1, 1983.

(e) Recapture of pre-1983 overall foreign losses determined on a combined basis.

(f) Transition rules for taxable years beginning before December 31, 1990.

(g) Recapture in years beginning after December 31, 2002, of separate limitation losses and overall foreign losses incurred in years beginning before January 1, 2003, with respect to the separate category for dividends from a noncontrolled section 902 corporation.

(1) Recapture of separate limitation loss or overall foreign loss in a separate category for dividends from a noncontrolled section 902 corporation.

(2) Recapture of separate limitation loss in another separate category.

(3) Exception.

(4) Examples.

(5) Effective/applicability date.

(h) [Reserved]

[T.D. 9371, 72 FR 72596, Dec. 21, 2007; T.D. 9452, 74 FR 27886, June 11, 2009]

§ 1.904(f)-0T Outline of regulation provisions (temporary).

This section lists the headings for §§ 1.904(f)-1T, 1.904(f)-2T, 1.904(f)-7T and 1.904(f)-8T.

§ 1.904(f)-1T Overall foreign loss and the overall foreign loss account (temporary).

(a)(1) [Reserved] For further guidance, see the entry for § 1.904(f)-1(a)(1) in § 1.904(f)-0.

(2) Application to post-1986 taxable years.

(b) through (d)(3) [Reserved] For further guidance, see the entries for § 1.904(f)-1(b) through (d)(3) in § 1.904(f)-0.

(d)(4) Adjustments for capital gains and losses.

(e) through (f) [Reserved] For further guidance, see the entries for § 1.904(f)-1(e) through (f) in § 1.904(f)-0.

(g) Effective/applicability date.

(h) Expiration date.

§ 1.904(f)-2T Recapture of overall foreign loss (temporary).

(a) and (b) [Reserved] For further guidance, see the entries for § 1.904(f)-2(a) and (b) in § 1.904(f)-0.

(c) Section 904(f)(1) recapture.

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(1) In general.

(c)(2) through (d) [Reserved] For further guidance, see the entries for § 1.904(f)-2(c)(2) through (d) in § 1.904(f)-0.

(e) Effective/applicability date.

(f) Expiration date.

§ 1.904(f)-7T Separate limitation loss and the separate limitation loss account (temporary).

(a) Overview of regulations.

(b) Definitions.

(1) Separate category.

(2) Separate limitation income.

(3) Separate limitation loss.

(c) Separate limitation loss account.

(d) Additions to separate limitation loss accounts.

(1) General rule.

(2) Separate limitation losses of another taxpayer.

(3) Additions to separate limitation loss account created by loss carryovers.

(e) Reductions of separate limitation loss accounts.

(1) Pre-recapture reduction for amounts allocated to other taxpayers.

(2) Reduction for offsetting loss accounts.

(3) Reduction for amounts recaptured.

(f) Effective/applicability date.

(g) Expiration date.

§ 1.904(f)-8T Recapture of separate limitation loss accounts (temporary).

(a) In general.

(b) Effect of recharacterization of separate limitation income on associated taxes.

(c) Effective/applicability date.

(d) Expiration date.

[T.D. 9371, 72 FR 72596, Dec. 21, 2007]

§ 1.904(f)-1 Overall foreign loss and the overall foreign loss account.

(a)(1) *Overview of regulations.* In general, section 904(f) and these regulations apply to any taxpayer that sustains an overall foreign loss (as defined in paragraph (c)(1) of this section) in a taxable year beginning after December 31, 1975. For taxable years ending after December 31, 1984, and beginning before January 1, 1987, there can be five types of overall foreign losses: a loss under each of the five separate limitations contained in former section 904(d)(1)(A) (passive interest limitation), (d)(1)(B) (DISC dividend limitation), (d)(1)(C) (foreign trade income limitation), (d)(1)(D) (foreign sales corporation (FSC) distributions limitation), and (d)(1)(E) (general limitation). For taxable years beginning after December 31, 1982, and ending before January 1, 1985,